

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

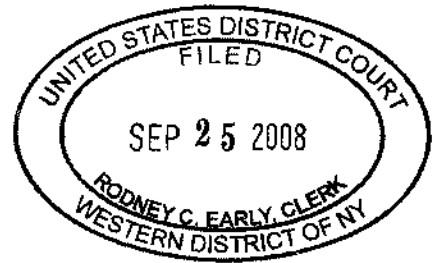
ANDRE DOLBERRY,

Plaintiff,

-vs-

SERGEANT HEICHT, et al.,

Defendants.



ORDER

02-CV-6418

Plaintiff, Andre Dolberry, an inmate in the custody of the New York State Department of Correctional Services, has filed a motion for injunctive relief on September 12, 2008 (Dkt. #268). On September 15, 2008, plaintiff filed a motion to expedite a hearing on his motion for injunctive relief (Dkt. #270).

The motions are denied. In order to obtain preliminary injunctive relief in this circuit, a movant must show: (1) irreparable harm in the absence of the relief sought and (2) either (a) a likelihood of success on the merits or (b) sufficiently serious questions going to the merits to make them a fair ground for litigation and a balance of hardships tipping decidedly in the movant's favor. *Donninger v. Niehoff*, 527 F.3d 41, 47 (2d Cir. 2008); *Sunward Elecs., Inc. v. McDonald*, 362 F.3d 17, 24 (2d Cir. 2004). Plaintiff has not carried that burden.

CONCLUSION

Plaintiff's motion for injunctive relief (Dkt. #268) is denied. Plaintiff's motion to expedite a hearing on his motion for injunctive relief (Dkt. #270) is also denied.

IT IS SO ORDERED.

A handwritten signature in cursive script, reading "David G. Larimer", written in black ink. The signature is positioned above a horizontal line.

DAVID G. LARIMER
United States District Court

Dated: September 24, 2008
Rochester, New York